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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MICHELE A. JOSEPH, Individually,

Plaintiff,

vs.

MOHAMAD POURNAMDARI, Individually,

Defendant.

) Case No. 2:17-cv-3450

) **COMPLAINT FOR DECLARATORY**
) **AND INJUNCTIVE RELIEF AND**
) **DAMAGES AND RELATED STATE**
) **LAW CLAIMS**

Plaintiff, MICHELE A. JOSEPH, Individually, on her behalf and on behalf of all other mobility impaired individuals similarly situated, (sometimes referred to as "Plaintiff"), hereby sues the Defendant, MOHAMAD POURNAMDARI, Individually, (sometimes referred to as "Defendant"), for injunctive relief, damages, attorney's fees, litigation expenses, and costs pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. ("ADA") and the related California Statutes, and allege the following:

COUNT I
VIOLATION OF TITLE III OF THE
AMERICANS WITH DISABILITIES ACT, 42 U.S.C. § 12181, et seq.

1. Plaintiff, Michele A. Joseph, is an individual residing at 4807 Principle Court, North Las Vegas, NV 89031, in the County of Clark.

- 1 2. Defendant's property, La Quinta Inn & Suites Inglewood, is located at 3945 W. Imperial
2 Hwy, Inglewood, CA 90303, in the County of Los Angeles.
- 3 3. Venue is properly located in the Central District of California, as venue lies in the judicial
4 district of the property situs. The Defendant's property is located in and do business
5 within this judicial district.
- 6 4. Pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343, this Court has been given original
7 jurisdiction over actions which arise from the Defendant's violations of Title III of the
8 Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. See also 28 U.S.C. § 2201
9 and § 2202. Jurisdiction over the state law claims vests with this Court because pending
10 and supplemental jurisdiction is proper pursuant to 28 U.S.C. § 1367.
- 11 5. Plaintiff Michele A. Joseph is a Nevada resident, is sui juris, and qualifies as an individual
12 with disabilities as defined by the ADA. She is a double amputee and uses both prosthetic
13 devices and a wheelchair for mobility. Michele A. Joseph stayed at the subject hotel on
14 November 20, 2016, and intends to return to the hotel, once it is accessible for her use.
15 While at the Defendant's property, the Plaintiff has encountered architectural barriers at
16 the subject property that endangered her safety. She intends to return to the subject hotel
17 when it is accessible to her, to avail herself to the goods and services offered to the public
18 at the property, and to confirm the property is brought into compliance with the ADA.
- 19 6. Defendant owns, leases, leases to, or operates a place of public accommodation as defined
20 by the ADA and the regulations implementing the ADA, 28 CFR 36.201(a) and 36.104.
21 Defendant is responsible for complying with the obligations of the ADA. The place of
22 public accommodation that the Defendant owns, operates, leases or leases to is known as
23 La Quinta Inn & Suites Inglewood, and is located at 3945 W. Imperial Hwy, Inglewood,
24 CA 90303.
- 25 7. Michele A. Joseph has a realistic, credible, existing and continuing threat of
26 discrimination from the Defendant's non-compliance with the ADA with respect to this
27 property as described but not necessarily limited to the allegations in paragraphs 10
28 through 12 of this complaint. Plaintiff has reasonable grounds to believe that she will

1 continue to be subjected to discrimination in violation of the ADA by the Defendant.
 2 Michele A. Joseph desires to visit La Quinta Inn & Suites Inglewood, not only to avail
 3 herself of the goods and services available at the properties but to assure herself that these
 4 properties are in compliance with the ADA so that she and others similarly situated will
 5 have full and equal enjoyment of the properties without fear of discrimination.

6 **FACTUAL ALLEGATIONS**

- 7 8. The Defendant has discriminated against the individual Plaintiff by denying him access
 8 to, and full and equal enjoyment of, the goods, services, facilities, privileges, advantages
 9 and/or accommodations of the buildings, as prohibited by 42 U.S.C. § 12182 et seq.
- 10 9. The Defendant has discriminated, and is continuing to discriminate, against the Plaintiff
 11 in violation of the ADA by failing to, inter alia, have accessible facilities by January 26,
 12 1992 (or January 26, 1993, if Defendant has 10 or fewer employees and gross receipts of
 13 \$500,000 or less). A preliminary inspection of the La Quinta Inn & Suites Inglewood has
 14 shown that violations exist. These violations were personally observed and encountered
 15 at the subject hotel by Michele A. Joseph.

16 **General Sites and Building Elements**

- 17 A. The facility does not maintain the elements that are required to be readily
 18 accessible and useable by persons with disabilities in violation of Section 36.211
 19 of the 2010 Standards, which remedies are readily achievable.

20 **Accessible Routes**

- 21 B. There are doors at the facility that do not provide the minimum maneuvering
 22 clearances required in Section 404.2.4.1 of the 2010 Standards, which remedy is
 23 readily achievable. This condition prevents Ms. Joseph from entering the certain
 24 doors without assistance.
- 25 C. There are doors in the accessible guest room that contain hardware that does not
 26 comply with Section 404.2.7, which remedy is readily achievable. This condition
 27 makes it difficult for the Plaintiff to open doors without assistance that lack lever
 28 handles.

- 1 D. The reach range for some of the items provided in the closet of the accessible
2 guest room exceed the maximum allowed in Sections 308.2 and 308.3 of the 2010
3 Standards, which remedy is readily achievable. This condition prevents Ms.
4 Joseph from reaching certain items without assistance.

5 **Public Restrooms**

- 6 E. The flush control of the water closet provided in Ladies' accessible stall is not
7 located on the open side of the fixture as required in Section 604.6 of the 2010
8 Standards, which remedy is readily achievable. This condition prevents Ms.
9 Joseph from flushing the toilet without assistance.
- 10 F. The toilet paper dispenser in the unisex toilet room is not mounted between
11 7" – 9" from in front of the water closet measured to the centerline of the
12 dispenser, violating Section 604.7 of the 2010 Standards, which remedy is readily
13 achievable. This condition makes it difficult for Ms. Joseph to access to toilet
14 paper.
- 15 G. The toilet cover dispenser is mounted less than 12" above the grab bar as required
16 in Section 609.3 of the 2010 Standards, which remedy is readily achievable. This
17 condition makes it difficult for Ms. Joseph to use the grab bar.
- 18 H. The height of the reflecting surface of the mirror provided at the lavatories
19 exceeds the maximum allowed in Section 603.3 of the 2010 Standards, which
20 remedy is readily achievable. This condition makes it difficult for Ms. Joseph to
21 use the mirror.

22 **Guest Rooms**

- 23 I. The flush control of the water closet in the accessible guest room is not mounted
24 on the open side of water closet area as required in Section 604.6 of the 2010
25 Standards, which remedy is readily achievable. This condition makes it difficult
26 for Ms. Joseph to flush the toilet without assistance.
- 27 J. The toilet paper dispenser is not located between 7" minimum and 9" maximum
28 in front of the water closet measured to the centerline of the dispenser, violating

1 Section 604.7 of the 2010 Standards, which remedy is readily achievable. This
2 condition makes it difficult for Ms. Joseph to use to toilet paper without
3 assistance.

4 K. The side grab bar provided at the water closet in the accessible guest room is not
5 mounted horizontally as required in Section 609.4 of the 2010 Standards, which
6 remedy is readily achievable. This condition prevents Ms. Joseph from using the
7 toilet without assistance.

8 L. The grab bars that are provided for the bathtub in the accessible guest room do not
9 comply with Section 607.4.2 of the 2010 Standards, which remedy is readily
10 achievable. This condition makes it difficult for Ms. Joseph to use the bathtub.

11 M. The mounting height of the hand held shower spray provided in the bathtub of the
12 accessible guest room exceeds the maximum allowed in Section 308.2 of the 2010
13 Standards, which remedy is readily achievable. This condition prevents Ms.
14 Joseph from using the hand held shower spray without assistance.

15 N. The location of the controls provided for the bathtub in the accessible guest room
16 does not comply with the requirements of Section 607.5 of the 2010 Standards,
17 which remedy is readily achievable. This condition makes it difficult for Ms.
18 Joseph to bathe without assistance.

19 O. The height of the reflecting surface of the mirror provided at the lavatory in the
20 accessible guest room exceeds the maximum allowed in Section 603.3 of the 2010
21 Standards, which remedy is readily achievable. This condition prevents Ms.
22 Joseph from using the mirror without assistance.

23 P. The accessible rooms are not properly dispersed among the various class of
24 accommodations offered at the hotel.

25 10. Ms. Joseph regularly visits Los Angeles to enjoy the amenities offered in the city and
26 surrounding areas and to visit with her aunt, cousin and nephew who live there. (Her
27 nephew plays basketball for the Los Angeles Lakers). Ms. Joseph stayed at the La Quinta
28 Inn & Suites Inglewood, and encountered the barriers described herein at the facility.

1 Additionally, she has been deterred from additional attempts at patronage, because of her
2 knowledge of the barriers.

3 11. In encountering and dealing with the lack of accessible facilities, the Plaintiff experienced
4 difficulty and discomfort. This violation denied the Plaintiff full and equal access to
5 facilities, privileges and accommodations offered by the Defendant.

6 12. Additionally, on information and belief, the Plaintiff alleges that the failure to remove the
7 barriers was intentional because: (1) the particular barriers are intrusive and obvious; (2)
8 the Defendant exercised control and dominion over the conditions at this location and,
9 therefore, the lack of accessible facilities was not an “accident” because had the Defendant
10 intended any other configuration, they had the means and ability to make the change.

11 13. Given the obvious and blatant violation, the Plaintiff alleges, on information and belief,
12 that there are other violations and barriers on the site that relate to her disability. Plaintiff
13 will amend the complaint, to provide proper notice regarding the scope of this lawsuit,
14 once she conducts a site inspection. However, please be on notice that the Plaintiff seeks
15 to have all barriers related to her disability remedied. See Doran v. 7-11, 506 F.3d 1191
16 (9th Cir. 2007) (holding that once a plaintiff encounters one barrier at a site, he can sue
17 to have all barriers that relate to her disability removed regardless of whether he
18 personally encountered them).

19 14. All of the foregoing violations are also violations of the 1991 Americans with Disabilities
20 Act Accessibility Guidelines (ADAAG), and the 2010 Standards for Accessible Design,
21 as promulgated by the U.S. Department of Justice.

22 15. The discriminatory violations described above are not an exclusive list of the Defendant’s
23 ADA violations. Plaintiff requires the inspection of the Defendant’s place of public
24 accommodation in order to photograph and measure all of the discriminatory acts
25 violating the ADA and all of the barriers to access. The individual Plaintiff, and all other
26 individuals similarly situated, have been denied access to, and have been denied the
27 benefits of services, programs and activities of the Defendant’s buildings and its facilities,
28 and have otherwise been discriminated against and damaged by the Defendant because of

1 the Defendant's ADA violations, as set forth above. The individual Plaintiff, and all
2 others similarly situated, will continue to suffer such discrimination, injury and damage
3 without the immediate relief provided by the ADA as requested herein. In order to
4 remedy this discriminatory situation, the Plaintiff requires an inspection of the
5 Defendant's place of public accommodation in order to determine all of the areas of non-
6 compliance with the Americans with Disabilities Act.

7 16. Defendant has discriminated against the individual Plaintiff by denying him access to full
8 and equal enjoyment of the goods, services, facilities, privileges, advantages and/or
9 accommodations of its place of public accommodation or commercial facility in violation
10 of 42 U.S.C. § 12181 et seq. and 28 CFR 36.302 et seq. Furthermore, the Defendant
11 continues to discriminate against the Plaintiff, and all those similarly situated by failing
12 to make reasonable modifications in policies, practices or procedures, when such
13 modifications are necessary to afford all offered goods, services, facilities, privileges,
14 advantages or accommodations to individuals with disabilities; and by failing to take such
15 efforts that may be necessary to ensure that no individual with a disability is excluded,
16 denied services, segregated or otherwise treated differently than other individuals because
17 of the absence of auxiliary aids and services.

18 17. Plaintiff is without adequate remedy at law and is suffering irreparable harm. Considering
19 the balance of hardships between the Plaintiff and Defendant, a remedy in equity is
20 warranted. Furthermore, the public interest would not be disserved by a permanent
21 injunction. Plaintiff has retained the undersigned counsel and are entitled to recover
22 attorney's fees, costs and litigation expenses from the Defendant pursuant to 42 U.S.C.
23 § 12205 and 28 CFR 36.505.

24 18. Defendant is required to remove the existing architectural barriers to the physically
25 disabled when such removal is readily achievable for its place of public accommodation
26 that have existed prior to January 26, 1992, 28 CFR 36.304(a); in the alternative, if there
27 has been an alteration to Defendant's place of public accommodation since January 26,
28 1992, then the Defendant is required to ensure to the maximum extent feasible, that the

1 altered portions of the facility are readily accessible to and useable by individuals with
2 disabilities, including individuals who use wheelchairs, 28 CFR 36.402; and finally, if the
3 Defendant's facility is one which was designed and constructed for first occupancy
4 subsequent to January 26, 1993, as defined in 28 CFR 36.401, then the Defendant's
5 facility must be readily accessible to and useable by individuals with disabilities as
6 defined by the ADA.

7 19. Notice to Defendant is not required as a result of the Defendant's failure to cure the
8 violations by January 26, 1992 (or January 26, 1993, if Defendant has 10 or fewer
9 employees and gross receipts of \$500,000 or less). All other conditions precedent have
10 been met by Plaintiff or waived by the Defendant.

11 20. Pursuant to 42 U.S.C. § 12188, this Court is provided with authority to grant Plaintiff
12 Injunctive Relief, including an order to require the Defendant to alter the La Quinta Inn
13 & Suites Inglewood to make those facilities readily accessible and useable to the Plaintiff
14 and all other persons with disabilities as defined by the ADA; or by closing the facility
15 until such time as the Defendant cures its violations of the ADA.

16 **WHEREFORE**, Plaintiff respectfully requests:

17 A. The Court issue a Declaratory Judgment that determines that the Defendant at the
18 commencement of the subject lawsuit is in violation of Title III of the Americans
19 with Disabilities Act, 42 U.S.C. § 12181 et seq.

20 B. Injunctive relief against the Defendant including an order to make all readily
21 achievable alterations to the facility; or to make such facility readily accessible to
22 and usable by individuals with disabilities to the extent required by the ADA; and
23 to require the Defendant to make reasonable modifications in policies, practices
24 or procedures, when such modifications are necessary to afford all offered goods,
25 services, facilities, privileges, advantages or accommodations to individuals with
26 disabilities; and by failing to take such steps that may be necessary to ensure that
27 no individual with a disability is excluded, denied services, segregated or
28 otherwise treated differently than other individuals because of the absence of

1 auxiliary aids and services.

2 C. An award of attorney's fees, costs and litigation expenses pursuant to 42 U.S.C.
3 § 12205.

4 D. Such other relief as the Court deems just and proper, and/or is allowable under
5 Title III of the Americans with Disabilities Act.

6 **COUNT II**
7 **DISABLED PERSONS ACT**

8 21. Plaintiff realleges herein all prior allegations of the Complaint as if more fully set forth
9 herein.

10 22. California Civil Code § 54 states, in part, that: Individuals with disabilities have the same
11 right as the general public to the full and free use of the streets, sidewalks, walkways,
12 public buildings and facilities, and other public places.

13 23. California Civil Code § 54.1 also states, in part, that: Individuals with disabilities shall be
14 entitled to full and equal access to accommodations, facilities, telephone facilities, places
15 of public accommodation, and other places to which the general public is invited.

16 24. Both sections specifically incorporate (by reference) an individual's rights under the ADA.
17 See Civil Code § 54(c) and 54.1(a).

18 25. Here, Defendant discriminated against the physically disabled public, including the
19 Plaintiff, by denying him full and equal access to the facility. Defendants also violated
20 Ms. Joseph rights under the ADA, and therefore, infringed upon or violated (or both)
21 Plaintiff's rights under the Disabled Persons Act.

22 26. For each offense of the Disabled Persons Act, Plaintiff seeks actual damages (both general
23 and specific damages), declaratory relief, and other remedies available under California
24 Civil Code § 54.3.

25 27. Plaintiff Meggs also seeks to recover reasonable attorneys fees incurred under California
26 Civil Code § 54.3.

27 **COUNT III**
28 **UNRUH CIVIL RIGHTS ACT**

29 28. Plaintiff realleges herein all prior allegations of the Complaint as if more fully set forth
30 herein.

1 29. California Civil Code § 51 states, in part, that: All persons withing the jurisdiction of this
2 state are entitled to the full and equal accommodations, advantages, facilities, privileges,
3 or service in all business establishments of every kind whatsoever.

4 30. California Civil Code § 51 also states, in part, that: No business establishment of any kind
5 whatsoever shall discriminate against any person in this state because of the disability of
6 the person.

7 31. California Civil Code § 51 specifically incorporates (by reference) an individual's rights
8 under the ADA into the Unruh Act.

9 32. Defendant's aforementioned acts and omissions denied the physically disabled public –
10 including the Plaintiff – full and equal accommodations, advantages, facilities, privileges
11 and services in a business establishment (because of their physical disability).

12 33. These acts and omissions (including the ones that violate the ADA) denied, aided or
13 incited a denial, or discriminated against Plaintiff by violating the Unruh Act.

14 34. Plaintiff Meggs was damages by Defendant's wrongful conduct, and seeks statutory
15 minimum damages of four thousand dollars (\$4,000) for each offense.

16 35. Plaintiff Meggs also seeks to enjoin Defendant from violating the Unruh Act (and ADA),
17 and recover reasonable attorneys' fees and costs incurred under California Civil Code
18 § 52(a).

19 **COUNT IV**
20 **PRAYER FOR RELIEF**

21 **WHEREFORE**, Plaintiff Michele A. Joseph prays for judgment against the Defendant,
jointly and severally for:

22 A. Injunctive relief, or any other relief the Court deems proper.

23 B. Declaratory relief that Defendant violated the ADA for the purposes of Unruh Act
24 or Disabled Persons Act damages.

25 C. Statutory minimum damages under either § 52(a) or § 54.3(a) of the California
26 Civil Code (but not both) according to proof.

27 D. Attorneys' fees, litigation expenses, and cost of suit.

28 //

1 E. Interest at the legal rate from the time of the filing of this action.

2 Respectfully Submitted,

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4 Dated: May 4, 2017

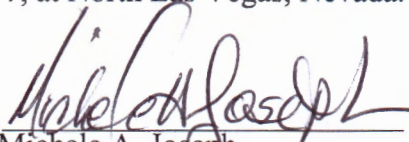
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6 Donald A. MacKay- Attorney for Plaintiff JOSEPH
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VERIFICATION

I am a party to this action, and I have read the foregoing complaint and know its contents. The matters stated in the complaint are true based on my own knowledge, except to those matters stated on information and belief, and to those matters I believe them to be true.

I declare under penalty and perjury under the laws of the state of California that the foregoing is true and correct.

Executed on April 10, 2017, at North Las Vegas, Nevada.

By: 
Michele A. Joseph